

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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COFFEE AMERICA (USA) CORP.,

Plaintiff,

-against-

MSC "POH LIN", her engines, boilers, etc.,

-and against-

MEDITERRANEAN SHIPPING  
COMPANY S.A.,

Defendants. :

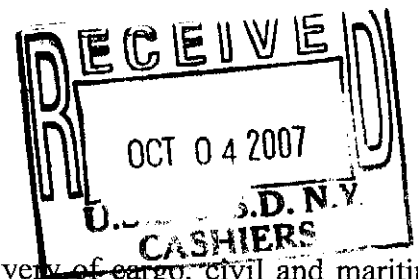
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JUDGE HOLWELL

VERIFIED COMPLAINT

07 Civ.

**07 CIV 8602**



1. This is a case of contract, cargo damage and non-delivery of cargo, civil and maritime and is an admiralty and maritime claim within the meaning of the Rule 9(h). Plaintiff invokes the maritime procedures specified in Rule 9(h).
2. Plaintiff, COFFEE AMERICA (USA) CORP., is a legal entity organized under the law, with an office located at 110 Wall Street, New York, New York 10005. Defendant, MEDITERRANEAN SHIPPING COMPANY S.A., is a legal entity organized under the law, with an agent, MEDITERRANEAN SHIPPING COMPANY (USA), INC., located at 420 Fifth Avenue, New York, New York 10018.
3. During all times herein mentioned, defendant was the owner and/or operator of the MSC "POH LIN" and operated it in the common carriage of goods by water for hire between Callao and New York.
4. The MSC "POH LIN", is now or during the pendency of this action will be, within this District.

5. On or about September 12, 2006, Hugo Valdivia Canal H.V.C Exportaciones delivered a shipment of 1,650 bags washed Peru coffee to defendant, as a common carriers at the port of Callao in good condition, for transportation on board the MSC "POH LIN" to New York, in consideration of an agreed freight and pursuant to the valid terms and conditions of clean on-board bills of lading issued by defendant and the MSC "POH LIN".
6. Defendant caused said goods, still in good order and condition to be laden on board the MSC "POH LIN". On or about October 6, 2006, the MSC "POH LIN" arrived at the port of New York and delivered said shipment in a short, slack and damaged condition.
7. Prior to October 6, 2006, plaintiff became for value the owner of said shipment and the owner and holder of said clean on-board bill of lading and brings this suit on its own behalf and that of all others interested in said shipment.
8. All conditions precedent required of plaintiff and of all others interested in said shipment have been performed.
9. By reason of the premises, plaintiff and those on whose behalf this suit is brought have sustained damages in the sum of \$40,000.00, as nearly as the same can now be estimated, no part of which has been paid although duly demanded.

**WHEREFORE**, plaintiff prays:

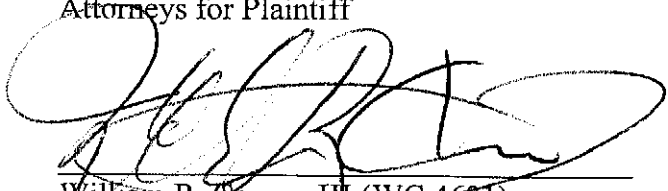
1. That the MSC "POH LIN" be arrested;
2. That process issue against defendant MEDITERRANEAN SHIPPING COMPANY S.A. and that defendant be cited to appear and answer the allegations of the complaint;
3. That an interlocutory judgment be entered in favor of the plaintiff against the MSC "POH LIN", against defendant directing that the plaintiff recover its

4. damages and that the MSC "POH LIN", be condemned and sold and the proceeds of sale be applied to the payment to plaintiff of the sums found due it;
5. That the amount due plaintiff be computed by further proceedings before a Magistrate, pursuant to Rule 53(b) and/or by further proceedings before the Court, pursuant to Rule 42(b);
6. That final judgment against defendant and the MSC "POH LIN", be entered in favor of the plaintiff for the amount found due plaintiff with interest and with costs; and
7. That plaintiff have such other and further relief as may be just.

Dated: New York, New York  
October 3, 2007

McDERMOTT & RADZIK, LLP  
Attorneys for Plaintiff

By



William R. Connor III (WC 4631)  
Wall Street Plaza  
88 Pine Street  
New York, New York 10005  
212-376-6400

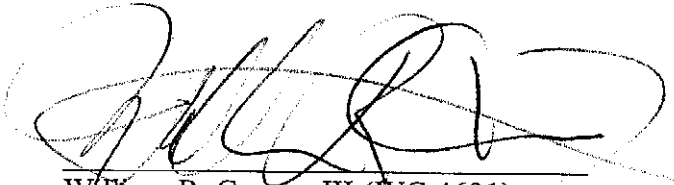
STATE OF NEW YORK     )  
                                      : S.S.  
COUNTY OF NEW YORK    )

WILLIAM R. CONNOR III, being duly sworn, deposes and says:

I am a member of the firm of McDermott & Radzik, LLP., attorneys for the Plaintiff in this action.

I have read the foregoing Verified Complaint, know the contents thereof, and the same is true to the best of my knowledge, information and belief.

The sources of my information and the grounds of my belief are documents in the possession of my firm.



William R. Connor III (WC 4631)

Sworn to before me this  
3rd day of October, 2007



Notary Public

LORI J. QUINN  
Notary Public, State of New York  
No. 01QU5062709  
Qualified in Nassau County  
Commission Expires July 1, 2010